THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.23450 of 2004

DATED: 19-10-2005

BETWEEN:

M/s Tirupati Hotels and Resorts P.Ltd .. Petitioner

And

The District Registrar and others. …… Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.23450 of 2004

ORDER:

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader.

Petitioner, which is a private limited company, had purchased the property belonging to Sri Lakshminarayana Swamy Temple in a public auction and when that sale deed was presented for registration to him, 2nd respondent withheld the registration of that document. Alleging in action on the part of the second respondent petitioner filed this petition seeking a direction to the respondents to release its document forthwith after registering the same.

The case of the respondents is that since the document is under valued, a notice dated 03.04.2004 under Section 47 A of the Stamp Act was issued, and

that the petitioner suppressing the said notice, went on making representation for release of document and filed this petition.

The contention of the learned counsel for the petitioner is that petitioner did not receive the notice referred to in the counter affidavit and in any event since the document whose registration is withheld was executed by a government servant in respect of a property belonging to a Devastanam even as per the provisions of Section 47A of the Stamp Act that value has to be taken as the correct value.

The contention of the learned Assistant Government Pleader is that since petitioner filed this petition without issuing a reply to the notice served on him, and had in fact suppressed the factum of service of notice on him, he is not entitled to any relief.

It is no doubt true the counter affidavit does not state the date of service of notice, dated 03.04.2004 on the petitioner. But that fact, per se, cannot be taken as a ground for holding that that notice was not served on the petitioner, because petitioner failed to file a reply affidavit disputing receipt of the notice. Had the petitioner sent a reply first respondent would have passed appropriate orders, after considering the reply. It is thus clear that petitioner did not approach this Court with clean hands as there is suppression of material facts. That is sufficient to dismiss this petition, but without doing so. I, at the request of the learned counsel for the petitioner, am inclined to grant 15 days time to the petitioner to send its reply to the notice dated 03.04.2004 referred to in the counter affidavit of the first respondent

Therefore, the writ petition is disposed of with a direction to the petitioner to submit its reply to the notice dated 03.04.2005 referred to in the counter affidavit of the first respondent within 15 days from today. After receipt of the reply first respondent shall dispose of the case before it on merits as expeditiously as possible. Petition is disposed of accordingly. No costs.

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19-10-2005

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